THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 5023 OF 2005

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Dated: 18th November, 2005.

Between:

B.Vijay Kumar Reddy ..Petitioner

A N D

1. The Mandal Revenue Officer, Uppal,

Ranga Reddy District and another …Respondents

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O R D E R :

1. This writ petition has been filed by B.Vijay Kumar Reddy with a prayer to declare the action of the respondent authorities in interfering with his possession over the house plot admeasuring 287 square yards comprising S.No. 176, situated in Ravindranagar colony, Habsiguda, Uppal Mandal as arbitrary and illegal.

2. It is the case of the petitioner that he purchased 287 square yards of house site comprising Survey Nos. 176, 53/1,53/3,56,57,58 and 70/2, situated in Ravindranagar colony, Habsiguda village, Uppal Mandal under a registered sale deed dated 16-7-2003. It is his further case that he submitted building permission application. Since no order has been passed on his application within the stipulated period of 60 days by the 2nd respondent, he proceeded with the construction. It is the grievance of the petitioner that the respondents authorities are trying to interfere with the possession over the site at the behest of D.Harishikeshwar Rao and D.Mahender against whom he filed a suit being O.S.No. 278 of 2005 on the file of the Junior Civil Judge, Ranga Reddy District and thus he approached this Court by invoking jurisdiction under Article 226 of the Constitution of India with the prayer stated supra.

3. Counter affidavit has been filed by the respondent No.2. It is stated in the counter affidavit that the building permission sought for has been refused under proceedings No.BA/428/04, dt. 1-2-2005. It is further stated that notice under section 228(1) and (2) of A.P. Municipalities Act, 1965, dated 31-3-2005 was issued to the petitioner and the petitioner did not submit any explanation to the said notice. I deem it appropriate to refer para-4 of the counter affidavit and it is thus:

> "*It is respectfully submitted that in reply to para 6 of the affidavit, I submit that the contents of this para are not true. The action of this respondent is not motivated by two other individuals. The petitioner applied for permission duly paying the necessary fee. The site was inspected by the official of this respondent and found that the proposed site was falling in Urban land ceiling area and as such the permission was refused and was intimated to the petitioner vide No. BA/428/04, dt1-2-2005. Meanwhile this respondent received a petition from one Sri B.Mohan Reddy, s/o. Laxma Reddy, GPA Holder of Dasu Narayana Rao, s/o: Trivikrama Rao said to be purchased an extent of 2222 square yards in Survey No. 53/1 and requested this office not to grant any permission for any construction in respect of the above said land till the disposal of O.S.No.178/2005 before the I Additional Senior Civil Judge, R.R. District. Since the permission was rejected earlier, Sri B. Mohan Reddy was requested to approach the Court of law to settle the issue. Again on inspection it was noticed that the petitioner was proceeding with the construction work against to the building rules in force, and a notice under Section 228(1) and (2) of A.P. Municipalities Act, 1965, Dt. 31-3-2005 was*

issued to the petitioner. It is pertinent to mention here that the petitioner has not submitted any explanation to the said Notice and this respondent has never interfered with the possession of the property admeasuring 287 square yards"..

4. Heard learned counsel for the petitioner and learned standing counsel appearing for the respondent No.2.

5. Learned counsel appearing for the petitioner submits that the rejection of the building permission application has not been communicated to the petitioner by the 2nd respondent. A further submission has been made that even if there is any order of rejection, the said order is arbitrary, since the 2nd respondent permitted many persons to construct houses in Ravindranagar Colony.

6. Learned standing counsel appearing for the respondent No.2 submits that the building permission application of the petitioner has been rejected and the same has been communicated to the petitioner and therefore, the writ petitioner is not entitled to any relief. It is also submitted by him that notice under Section 228(1) and (2) dated 21-3-2005 has been issued and no explanation has been received from the petitioner and as such confirmation order has been passed on 31-3-2005. The orders passed by the 2nd respondent under Section 228(1) and (2) as well as order passed under Section 228(3) has been placed on record and the copies of the same are also furnished to the learned counsel for the petitioner on this day.

7. A serious contention has been advanced by the learned counsel for the petitioner that the said orders are not served on the petitioners. Without going into the controversy with regard to the service of the said orders, I deem it appropriate to direct the petitioner to avail the remedy of appeal provided under Section 345 of the A.P. Municipalities Act. The petitioner shall file an appeal within 30 days from today.

9. Accordingly, the writ petition is dismissed. No order as to costs.

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B.Seshasayana Reddy,J

18th November, 2005

C.C. in two day.

B/o

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